

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT COLUMBUS**

GASUMU KAMARA,

Petitioner, : Case No. 2:21-cv-2029

- vs -

Chief Judge Algenon L. Marbley  
Magistrate Judge Michael R. Merz

WARDEN,  
London Correctional Institution,

:  
Respondent.

---

---

**ORDER DISSOLVING STAY**

---

---

This habeas corpus case is before the Court on Respondent's Status Report (ECF No. 25). Respondent previously reported that the Ohio Court of Appeals for Union County had decided Petitioner's pending appeal on November 22, 2021. Respondent now reports that Petitioner has failed to file any further appeal to the Supreme Court of Ohio and suggests that the case is therefore ripe for decision. *Id.* The Court has independently confirmed both the date of final judgment in the Third District and the lack of any filing since then.<sup>1</sup> As Respondent notes, the only filing in the Supreme Court of Ohio under Petitioner's name is his direct appeal, Case No. 2020-195, in which the Supreme Court of Ohio declined jurisdiction on April 14, 2020. The Supreme Court of Ohio has a strictly-enforced forty-five day time limit on appeals from the Ohio courts of appeal. Because

---

<sup>1</sup> <https://eservices.co.union.oh.us>, visited January 31, 2022.

Kamara has filed no appeal within forty-five days of November 22, 2021, he is now barred from doing so.

Accordingly, the stay of these proceedings entered September 21, 2021 (ECF No. 17) is DISSOLVED. Not later than March 1, 2022, Respondent shall file an amended answer/return of writ responding to Petitioner's eleven grounds for relief as set forth in the Decision and Order of September 17, 2021 (ECF No. 17, PageID 939-40). Specifically, said answer shall respond to each allegation made in the Petition, comply with Rule 5(c) regarding transcripts, raise any affirmative defense relied on by Respondent, and state whether, from Respondent's perspective, any claim in the Petition is barred by a failure to exhaust state remedies, a procedural bar, non-retroactivity, or a statute of limitations.

This Order does not authorize a motion to dismiss in lieu of an answer. If Respondent wishes to obtain an adjudication of an affirmative defense apart from a decision on the merits, Respondent may file a motion for judgment on the pleadings after the answer is filed. Before filing the answer, the Respondent shall supplement the state court record already filed in this case (ECF No. 9) with any state court filings since the State Court Record was filed and which are needed to adjudicate this case.

S. D. Ohio Civ. R. 5.1(c) provides

**(c) Electronic Filing.** Except as provided herein or unless otherwise authorized by a Judge, all documents shall be filed electronically as a searchable text PDF using the ECF system except that documents filed by *pro se* litigants may be filed on paper. Paper documents shall be scanned into a searchable text PDF and uploaded by the Clerk. Documents filed electronically shall conform to the requirements of these Rules and to the format for the ECF system set out in the most current edition of the ECF Manual.

Compliance with this rule is mandatory and needed for the Court's use of the record.

When the record is filed electronically, the Court's CM/ECF filing system will affix a unique PageID number to each page of the record, displayed in the upper right-hand corner of the page. All papers filed in the case thereafter by either party shall include record references to the PageID number. Prior to filing the state court record, the Warden's counsel shall ensure that any borders on parts of the record (typically, court reporter transcripts) do not obscure the PageID number when the page is filed. The record shall be indexed by insertion of "bookmarks" in the .pdf version of the state court record uploaded to the Court's CM/ECF system which display each exhibit and the name of that exhibit in the record.

As required by Fed.R.Civ.P. 5, a complete copy of the amended answer and supplemental state court record with the PageID numbers and "bookmarks" must be served on Petitioner at the time of filing. Petitioner may, not later than twenty-one days after filing of the amended answer, file and serve an amended reply to the answer.

January 31, 2022.

*s/ Michael R. Merz*  
United States Magistrate Judge